

Proposed Changes to Bethel's Constitution and Bylaws

Bethel's Church Council approved several amendments to the Constitution and Bylaws at its November 2006 meeting. These are to be voted on by the congregation at the annual January 2007 meeting.

The proposed changes came from two sources:

- The recent review of Bethel's practices by CPAs Seeba & Associates, Inc.
- Amendments to the Evangelical Lutheran Church in America's Model Constitution for Congregations adopted at churchwide assemblies in 2003 and 2005.

In the following listings of amendments, additions are underlined and deletions are ~~struck through~~ in the text.

The current Constitution, Bylaws, and Continuing Resolutions, which were ratified by the congregation in 2003 are available on-line at www.bethelcupertino.org/insideBethel/cbcr.php

Amendments based on Seeba & Associates recommendations

Changes to the Constitution (proposals 1 through 3) must follow procedures in C17.01: A constitutional amendment approved by a majority of members at a meeting of the congregation does not become effective until it is then (a) ratified without change at the next annual meeting by a two-thirds majority and then (b) sent to the synod for a 120 day review.

Changes to the Bylaws (proposals 4 and 5) may be adopted by a simple majority at a congregational meeting.

1. *Remove apparent inconsistency between terms of office specified for officers in C11.04 ("No officer shall be eligible to serve more than three consecutive full terms in the same office") and council members in C12.03 ("No member shall be eligible to serve more than two consecutive full terms as an elected Congregation Council member") by rewording C 12.03 to note the exception for officers (three 2-year terms for officers vs. two 3-year terms for other council members).*

C 12.03 No member shall be eligible to serve more than two consecutive full terms as an elected Congregation Council member, except for officers as specified in C 11.04.

2. *Change C12.05.c to increase authorization amount of additional spending and to reference a total amount.*
c. The Congregation Council may enter into contracts ~~of up to \$1,000.00~~ for items not included in the budget if the total amount of all additional spending does not exceed ten (10) percent of the budget.

3. *Modify duties for the Audit Committee in C13.03 to include best practice recommendations of the Evangelical Council for Financial Accountability (available on-line at www.ecfa.org/pdf/BestPractices-Churches.pdf). The ECFA is a nationally recognized accreditation agency dedicated to helping Christian ministries earn the public's trust through adherence to standards of responsible stewardship.*

C 13.03 An Audit Committee is established. It shall be a standing committee. The Audit Committee shall perform an audit of the financial records of the congregation after the close of its fiscal year, including compliance with best-practice recommendations of the Evangelical Council for Financial Accountability. The chair of the committee shall report the results to the Congregation Council.

4. *Modify duties of Treasurer in Bylaws C13.08.04b so it does not imply that an outside, independent CPA prepares audited financial statements – something not currently done.*

C 13.08.04. The Fiscal Officer (Treasurer)

...

- b. Presents ~~a duly~~ an internally audited account of the financial status of the congregation to the Annual Congregational Meeting.

5. *Change the fiscal year from July through June to September through August (Bylaws C1.03.02).*

C 1.03.02. The fiscal year of the congregation shall be ~~July~~ September 1 through ~~June 30~~ August 31.

Amendments to ELCA Model Congregation Constitution

The work between Bethel and the Sierra Pacific Synod regarding the assets of the former Redeemer Luther Church makes adoption of paragraph *C7.05, “concerning property of the synod entrusted to a congregation for the mission and ministry on the territory of the synod,” a priority. Most remaining changes simply bring Bethel’s constitution into alignment with current ELCA practices.

Amendments to the model constitution for congregations approved by an ELCA Churchwide Assembly can be adopted by a simple majority vote at a meeting of the congregation. Paragraph numbers beginning with an asterisk (“*”) are provisions the ELCA requires to be adopted without alteration to the text.

*To adopt a new provision, *C5.03.d. in the Model Constitution for Congregations to make reference to amendments and to re-letter the subsequent items:*

- *C5.03. Only such authority as is delegated to the Congregation Council or other organizational units in this congregation’s governing documents is recognized. All remaining authority is retained by the congregation. The congregation is authorized to:

...

- d. adopt amendments to the constitution, as provided in Chapter 17, and amendments to the bylaws, as specified in Chapter 16;

....

To adopt a new provision, C5.05. in the Model Constitution for Congregations to provide for endowment funds:

C5.05. This congregation shall have an endowment trust fund that will operate as specified in the articles approved by this congregation. The purpose of the endowment fund is to provide for work beyond the operational budget of this congregation.

To adopt a new provision C7.05. for the Model Constitution for Congregations related to †S13.23. concerning property of the synod entrusted to a congregation for the mission and ministry on the territory of the synod:

C7.05. Notwithstanding the provisions of *C7.02. and *C7.03. above, where this congregation has received property from the synod pursuant to a deed or other instrument containing restrictions under provision 9.71.a. of the Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America, this congregation accepts such restrictions and:

- a. Shall not transfer, encumber, mortgage, or in any way burden or impair any right, title, or interest in the property without prior approval of the Synod Council.
- b. Shall—upon written demand by the Synod Council, pursuant to †S13.23. of the constitution of the Sierra Pacific Synod of the ELCA— reconvey and transfer all right, title, and interest in the property to the synod.

*To amend *C9.08. in the Model Constitution for Congregation to reflect more completely the requirements of nS14.16. in the Constitution for Synods:*

- *C9.08. This congregation shall make satisfactory settlement of all financial obligations to a former pastor before calling a successor. A pastor shall make satisfactory settlement of all financial obligations to this congregation before beginning service in a call to another congregation or employment in another ministry setting related to the Evangelical Lutheran Church in America.

*To adopt a new provision as *C9.14. in the Model Constitution for Congregations to be consistent with the requirements of S14.15. in the Constitution for Synods of this church:*

- *C9.14. The parochial records of this congregation shall be maintained by the pastor and shall remain the property of the congregation. The secretary of this congregation shall attest in writing to the bishop of this synod that such records have been placed in his or her hands in good order by a departing pastor before the installation of that pastor in another field of labor or the granting by the synod of retired status to the pastor.

To amend C9.21. in the Model Constitution for Congregation to make the language of the provision consistent with churchwide bylaw 8.72.12.:

- C9.21. Under special circumstances, subject to the approval of the synodical bishop and the concurrence of this congregation, an ordained minister of a church body with which the Evangelical Lutheran Church in America officially has established a relationship of full communion may serve temporarily ~~under contract~~ as pastor of this congregation under a contract between the congregation and the ordained minister in a form proposed by the synodical bishop and approved by the congregation.

To amend C10.06. in the Model Constitution for Congregations to clarify its meaning:

- C10.06. All actions approved by the congregation shall be by majority vote of those voting members present and voting, except as otherwise provided in this constitution or by state law.

*To amend *C15.02. in the Model Constitution for Congregations to reflect revised churchwide bylaw 20.41.02. and new bylaw 20.41.03.:*

- *C15.02. The process for discipline of a member of the congregation shall be governed as prescribed by the chapter on discipline in the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*. If discipline against a member proceeds beyond counseling and admonition by the pastor, charges against the accused member(s) that are specific and in writing shall be prepared by member(s) of the congregation who shall sign the charges as the accuser(s). The written charges shall be filed with the pastor, who shall advise the Congregation Council of the need to issue a written citation to the accused and the accusers that specifies the time and place of the hearing before the Congregation Council. The written charges shall accompany the written citation to the accused. A member charged with the offense shall appear before the Congregation Council after

having received a written ~~notice citation~~, at least ten days prior to the meeting, ~~specifying the exact charges that have been made against the member~~. If the member charged with the offense fails to appear at the scheduled hearing, the Congregation Council may proceed with the hearing and may pass judgment in the member's absence.

*To amend *C15.06. in the Model Constitution for Congregations to change the citation from 20.41.03. to 20.41.04.:*

*C15.06. For disciplinary actions in this congregation, "due process" shall be observed as specified ~~in 20.41.03.~~ 20.41.04. in the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*.

*To amend *C16.03. in the Model Constitution for Congregations to clarify its meaning:*

*C16.03. Changes to the bylaws may be proposed by any voting member provided, however, that such additions or amendments be submitted in writing to the Congregation Council at least 60 days before a regular or special Congregation Meeting called for that purpose and that the Congregation Council notify the congregation's members by mail of the proposal with ~~its~~ the council's recommendations at least 30 days in advance of the Congregation Meeting.

*To amend *C17.01., *C17.02., *C17.03., and *C17.04. in the Model Constitution for Congregations to clarify the meaning and implications of those provisions:*

*C17.01. Those sections of this constitution that are not required, in accord with the *Model Constitution for Congregations of the Evangelical Lutheran Church in America*, may be amended in the following manner. Amendments ~~to this constitution~~ may be proposed by at least 10 voting members or by the Congregation Council. Proposals must be filed in writing with the Congregation Council 60 days before formal consideration by this congregation at ~~its~~ a regular or special Congregation Meeting called for that purpose. The Congregation Council shall notify the congregation's members by mail of the proposal together with the council's recommendations at least 30 days in advance of the meeting.

*C17.02. ~~An proposed~~ amendment to this constitution, proposed under *C17.01., shall:

a. be approved at a legally called Congregation Meeting according to this constitution by a majority vote of those present and voting;... [*with the remainder unchanged*].

*C17.03. Any amendments to this constitution that result from the processes provided in *C17.01. and *C17.02. shall be sent by the secretary of this congregation to the synod. The amendment shall become effective within 120 days from the date of the receipt of the notice by the synod unless the synod informs this congregation that the amendment is in conflict with the constitution and bylaws of the Evangelical Lutheran Church in America or the constitution of the Sierra Pacific Synod of the ELCA.

*C17.04. Whenever the *Model Constitution for Congregations* is amended by the Churchwide Assembly, this constitution may be amended to ~~reflect~~ incorporate any such amendment by a simple majority vote of those voting members present and voting at any subsequent meeting of the congregation without presentation at a prior meeting of the congregation, provided that the Congregation Council has submitted by mail notice to the congregation of such an amendment or amendments, together with the council's recommendations, at least 30 days prior to the meeting. Following the adoption of an amendment, the secretary of the congregation shall submit a copy thereof to the synod, ~~consistent with *C17.03.~~ Such provisions shall become effective immediately following a vote of approval.